IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

WP(C).No. 2332 of 2007(C)

O.S.No.49/98 OF FAMILY COURT, KOLLAM

PETITIONER:

SARASWATHY, AGED 70 YEARS,
D/O.KARTHYAYANI, DEVABHAVANAM,
AYATHIL P.O., VADAKKEVILA VILLAGE, KOLLAM.

BY ADV. SRI.JOHNSON GOMEZ

RESPONDENTS:

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1. THE DISTRICT SUPERINTENDENT OF POLICE
(CRIMINAL INVESTIGATION) OFFICE OF THE DISTRICT
SUPERINTENDENT OF POLICE,
KADAPPAKKADA, KOLLAM.

2. THE CIRCLE INSPECTOR OF POLICE,
CB CID, OFFICE OF THE DISTRICT SUPERINTENDENT
OF POLICE, CRIME BRANCH, KADAPPAKKADA, KOLLAM.

3. THE SHERISTADAR,
FAMILY COURT, KOLLAM.

BY GOVERNMENT PLEADER SRI.GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC NO.2332 OF 2007

PETITIONER'S EXHIBITS:

EXT.P1:- TRUE COPY OF THE DECREE DATED 30TH NOVEMBER 2004 IN OS NO.255 OF 1999 PASSED BY THE FAMILY COURT, KOLLAM.

EXT.P2:- A TRUE COPY OF THE ORDER DATED 2ND AUGUST 2005 IN OS NO.49 OF 1998 PASSED BY THE FAMILY COURT, KOLLAM.

EXT.P3:- TRUE COPY OF THE REPRESENTATION DATED 14/12/2005 SUBMITTED BY THE PETITIONRE BEFORE THE FIRST RESPONDENT.

[TRUE COPY]

R.BASANT, J

W.P.C.No.2332 of 2007

Dated this the 21st day of February 2007

JUDGMENT

The petitioner has come to this court with the grievance that a document - gift deed executed by her deceased husband in her favour, as early as in 1980, which she had produced before the Family Court in connection with a suit filed by her is not being returned by the third respondent, the Sheristadar, Family Court on the plea that the second respondent has directed that the document should not be released to the petitioner by the third respondent.

2. The learned Public Prosecutor was directed to take instructions. The learned Public Prosecutor confirms that the second respondent has instructed the third respondent not to release the document to anyone as crime No.64/03 has been registered in respect of the death of the husband of the petitioner on 13/11/2002. The gift deed which has subsequently been cancelled by the deceased who, in turn, has later executed a gift deed in favour of his son by an earlier marriage is crucially relevant in the investigation into the cause of death of the deceased. The learned Public Prosecutor only prays that reasonable further time may be given to the investigating officer to complete the investigation before the question of release of

the document is considered. It is true that the petitioner has not been arrayed as an accused so far. It is also true that no specific and tangible indications pointing to the culpability of the petitioner has been arrived at. But the learned Public Prosecutor submits that, in the peculiar facts and circumstances of this case, the investigator may be given three months time to complete the investigation before the question of release of the document is considered by this court. The learned counsel for the petitioner submits that the petitioner wants to dispose of the property and the petitioner shall abide by any reasonable directions that will be issued by this court regarding the retention of the document in her custody.

3. I am, in these circumstances, satisfied that the investigator can be given three months further time to complete the investigation. The petitioner shall be at liberty to approach the learned Magistrate thereafter with the request to release the document in her favour.

4. This writ petition is, accordingly allowed in part and the above directions are issued.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006